

1                                   **IN THE UNITED STATES DISTRICT COURT**  
2                                   **FOR THE EASTERN DISTRICT OF CALIFORNIA**

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4       LUIS C. RODRIGUEZ,

CASE NO. **CV F 08-0802 LJO**  
CR F 05-0063 LJO

5                                   Petitioner/Defendant,  
6                   vs.

**BRIEFING ORDER**

7       UNITED STATES OF AMERICA,

8                                   Respondent/Plaintiff.  
9       \_\_\_\_\_ /

10               Petitioner Luis C. Rodriguez ("Mr. Rodriguez") filed a direct appeal and a petition for writ of  
11       habeas corpus ("petition") after an August 2, 2007 judgment and commitment against him. The United  
12       States Court of Appeal for the Ninth Circuit ("Ninth Circuit") construed Mr. Rodriguez's petition as a  
13       18 U.S.C. § 2255 ("Section 2255") motion and transferred that matter to this Court for determination.  
14       This Court suspended the Section 2255 briefing schedule until the direct appeal was resolved.

15               On May 12, 2009, the Ninth Circuit issued its mandate in the appeal, pursuant to an April 17,  
16       2009 memorandum decision affirming the decision of this Court. On May 15, 2009, the United States  
17       filed a status report, as directed by this Court's January 13, 2009 order. The United States suggests that  
18       this Court place the pending Section 2255 motion on its calendar. This Court agrees. As such, this  
19       Court **ORDERS**:

- 20               1.       The United States of America, **no later than June 8, 2009**, to file and serve its response  
21                       to the petition and the petition's merits; and  
22               2.       Mr. Rodriguez, **no later than June 22, 2009**, to file and serve reply papers, if any.

23       This Court will review the matter on the record and set a hearing, if necessary, once all papers are filed.  
24       If no hearing is necessary, this Court will issue a ruling based on the submitted papers, exhibits, and the  
25       record.

26       IT IS SO ORDERED.

27       **Dated:    May 18, 2009**

28   /s/ Lawrence J. O'Neill  
UNITED STATES DISTRICT JUDGE